

Appl. No.: 10/632,377
Amdt. dated 07/01/2005
Reply to Office Action of April 1, 2005

REMARKS/ARGUMENTS

Consideration Of Previously Submitted Information Disclosure Statement

It is noted that an initialed copy of the PTO Form 1449 that was submitted with Applicants' Information Disclosure Statement filed November 12, 2003 was returned to Applicants' representative with the Office Action; however, the Examiner has failed to initial Reference #6. Accordingly, it is requested that an initialed copy of the Form 1449 be forwarded to the undersigned with the next communication from the PTO. In order to facilitate review of the references by the Examiner, a copy of the Information Disclosure Statement and the Form 1449 are attached hereto. Copies of the cited references were not provided at the time of filing the original Information Disclosure Statement since they were of record in parent application No. 09/701,413, filed February 20, 2001. Applicants will be pleased to provide additional copies of the references upon the Examiner's request if it proves difficult to locate the original references.

Status of the Claims

Claims 1-3, 6-8, 12-15, 18 and 19 are now pending in the application. New claims 20-24 have been added. Support for the new claims can be found throughout the specification, in particular page 5, lines 18-27. No new matter has been added by way of amendment. Re-examination and reconsideration of the claims are respectfully requested.

The Rejection of the Claims Under 35 U.S.C. § 102 Should Be Withdrawn

Claims 1-3 and 12-15 were rejected under 35 U.S.C. § 102(a) as being anticipated by Storms *et al.* The rejection has been obviated by filing concurrently herewith a declaration by Inventor Clayton A. Smith. Dr. Smith indicates that the three co-authors of the abstract who are not listed as inventors on the present application did not contribute to conception of the subject matter claimed in the present application and are thus not co-inventors. Accordingly, since the reference was published less than one year prior to December 7, 1998, the priority date of the above-identified patent application, the rejection should be withdrawn.

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The Rejection of the Claims Under 35 U.S.C. § 103 Should Be Withdrawn

Claims 1-3, 6-8, 12-15, 18 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Storms *et al.* taken with Gai *et al.* This rejection is respectfully traversed.

As indicated above, the primary reference Storms *et al.* is not available as a prior art reference against the present claims. Gai *et al.* is cited for teaching efflux of drugs or substrates from cells by exposing cells to MDR inhibitors such as verapamil. Gai *et al.* does not teach, or render obvious, the claimed method. Therefore, the rejection of the claims under 35 U.S.C. § 103(a) should be withdrawn.

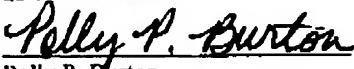
CONCLUSION

It is believed that all the rejections have been obviated or overcome, and the claims are in condition for allowance. Early notice to this effect is solicited.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

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Customer No. 00826 ALSTON & BIRD LLP Bank of America Plaza 101 South Tryon Street, Suite 4000 Charlotte, NC 28280-4000 Tel Raleigh Office (919) 862-2200 Fax Raleigh Office (919) 862-2260	CERTIFICATION OF FACSIMILE TRANSMISSION I hereby certify that this paper is being facsimile transmitted to the US Patent and Trademark Office at Fax No. (703) 872-9306 on the date shown below.  Polly P. Burton <u>7/1/05</u> Date
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